IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO. 361 OF 2002.

1. Mrs. Savita alias Gulab
   Sadanand Bondre, widow of
   late Sadanand Bondre;
2. Mr. Vallabh Sadanand Bondre,
   s/o Sadanand Bondre;
3. Mrs. Vishakha Vallabh Bondre,
   w/o Vallabh Sadanand Bondre;
   all r/at Bazarpeth, Mauswada,
   Pernem, Goa.
4. Shri Sandeep Jaywant Natekar,
   s/o late Jaywant Natekar and
   his wife.
5. Smt. Shamal Sandeep Natekar,
   Both r/at Madhur Apartments,
   Shetyewado, Duler, Mapusa, Goa. ... Petitioners.

Versus

1. Shri Jagannath Vinayak Manerkar,
   businessman and his wife
2. Smt. Medini Jagannath Manerkar,
   both r/at H. No. E 8/115, Mapusa,
   Goa.
3. Sesa Goa Limited,
   a company incorporated under the
   Companies Act, 1956, having its
   Registered Office at Sesa Ghor,
   20 EDC Complex, Patto, Panaji.
4. Shri Ajit Yeshwant Pangam,
   s/o late Yeshwant Pangam, and his
   wife
5. Smt. Bharati Ajit Pangam,
   both r/at Shalini Building,
   Ansabhat, Mapusa.
6. M/s. Damodar Mangalji Co. Pvt. Ltd.,
   a company incorporated under the
   Companies Act, 1956, having their
   registered office at Casa
   Damodar, Panaji.
7. M/s. V.S. Dempo & Co. Pvt. Ltd.,
   a registered company having its
   registered office at Dempo
   House, Campal, Panaji.
8. Shri Deepak Jaywant Natekar,
   businessman, s/o late Jaywant
   Amonkar, and his wife
9. Smt. Sharada Deepak Natekar,
   both r/at Madhur Apartments,
   Shetyewado, Duler, Mapusa.
10. Smt. Prema Lata Jaywant Natekar
    nee Vimal Vinayak Sete Manerkar,
    w/o late Jaywant Natekar, r/at
    Madhur Apartments, Flat No. 35,

Shetyewado, Duler, Mapusa.
11. Mrs. Sushama Atul Patnekar,
d/o late Sadanand Bondre,
and her husband
12. Mr. Atul Patnekar,
both r/at Margao. ... Respondents.

Mr. S.D. Lotlikar, Senior Advocate with Mr. A.D. Bhobe, Advocate for the Petitioners.

Mr. M.S. Sonak, Advocate for the Respondents.

Coram: P.V. HARDAS, J.

Date: 16th January 2003.

ORAL JUDGMENT.

Rule. Rule made returnable forthwith. By consent of parties, this petition is taken up for final hearing.

2. This petition has been filed against the Order passed by the Civil Judge, Senior Division, Bicholim, dated 15th July 2002, in Civil Miscellaneous Application No. 53/2002/A arising in Special Civil Suit No. 31/96/A. By this Order, the learned trial Court had dismissed the application filed by the present petitioners/plaintiffs seeking amendment of the plaint.

3. The case of the plaintiffs before the trial Court is that the defendants 1 and 2 have sold some properties to defendants no. 3 and others without the consent of the plaintiffs 1 and 2, who are the co-owners. The Sale Deed as such is under challenge in the said Civil Suit. By the present application for

amendment, the petitioners had sought to amend the plaint to incorporate the fact of an Agreement of Compensation, dated 24th May 1995, whereby the defendants no. 3 had agreed to pay compensation to the defendants 1 and 2 in respect of the properties sold to the defendants no. 3 by the defendants 1 and 2. The learned trial Court came to the conclusion that the existence of the said Agreement, dated 24th May 1995, is a matter between the defendants 1, 2 and 3 and it will in no way affect the rights of the plaintiffs. Therefore, according to the learned trial Court, the said Agreement was not at all germane for the decision of the controversy in the suit. The trial Court, therefore, dismissed the said application.

4. I have heard Mr. Lotlikar, learned senior counsel appearing on behalf of the petitioners and Mr. Sonak, learned counsel appearing on behalf of the respondents.

5. I have perused the Order of the learned trial Court and in my considered opinion, the amendment is not at all necessary for the decision of the controversy in the suit. The plaintiffs are in no way affected by the existence of the Agreement for Compensation between the defendants 1, 2 and 3. According to me, the learned trial Court has arrived at a correct finding in

dismissing the application. I see no perversity in the reasoning of the learned trial Court warranting any interference in writ jurisdiction.

6. The Writ Petition is, therefore, dismissed. Rule is discharged with no order as to costs.

(P.V. HARDAS)
JUDGE.

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